



POLICE DEPARTMENT

October 21, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Carlos Pava  
Tax Registry No. 921662  
90 Precinct  
Disciplinary Case Nos. 2013-10374 & 2015-13884  
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The above-named members of the Department appeared before me on September 10, 2015, charged with the following:

Disciplinary Case No. 2013-10374

1. Said Police Officer Carlos Pava, while on duty and assigned to the 90th Precinct, on or about October 2, 2013, having been previously notified for an appearance at the Desk Appearance Ticket (DAT) Room at Kings County Criminal Court, failed to appear at said location.

P.G. 202-21, Page 1, Paragraph 2 - DUTIES AND RESPONSIBILITIES POLICE OFFICER

2. Said Police Officer Carlos Pava, while on duty and assigned as indicated in Specification No. 1, on or about October 5, 2013, failed to timely appear at a fixed post.

P.G. 203-03, Page 1, Paragraph 3 - GENERAL REGULATIONS COMPLIANCE WITH ORDERS

3. Said Police Officer Carlos Pava, while on duty and assigned as indicated in Specification No. 1, on or about April 3, 2014, arrived late to a previously scheduled appearance at the Brooklyn North Traffic Violations Bureau (BNTVB), and failed to report to the Police Room and obtain a completed court attendance form.

P.G. 203-03, Page 1, Paragraph 3 - GENERAL REGULATIONS COMPLIANCE  
P.G. 211-01, Page 1, Paragraph 2 - WITH ORDERS COURT AND AGENCY  
APPEARANCES DUTIES AND CONDUCT IN COURT

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4. Said Police Officer Carlos Pava, while on duty and assigned as indicated in Specification No. 1, on or about and between December 16, 2013 and January 19, 2014, was late reporting for duty on three (3) separate occasions, to wit: December 16, 2013, December 19, 2013, January 19, 2014.

P.G. 203-03, Page 1, Paragraph 3 - GENERAL REGULATIONS COMPLIANCE  
WITH ORDERS

5. Said Police Officer Carlos Pava, while on duty and assigned as indicated in Specification No. 1, on or about September 22, 2014, failed to wear appropriate attire to a scheduled appearance at the Brooklyn North Traffic Violations Bureau (BNTVB).

P.G. 211-01, Page 1, Paragraph 1, 5 - COURT AND AGENCY APPEARANCES  
DUTIES AND CONDUCT IN COURT

6. Said Police Officer Carlos Pava, while on duty and assigned as indicated in Specification No. 1, on or about and between October 6, 2014 and October 30, 2014, was late reporting for duty on three (3) separate occasions, to wit: October 6, 2014, October 14, 2014, October 30, 2014.

P.G. 203-03, Page 1, Paragraph 3 - GENERAL REGULATIONS COMPLIANCE  
WITH ORDERS

Disciplinary Case No. 2015-13884

1. Said Police Officer Carlos Pava, assigned to the 90th Precinct, on or about August 20th, 2014, while on sick report, left the confines of New York City or contiguous residence counties without authorization, to wit: said Police Officer traveled to Washington D C. on that date, and failed submit an "Absence from City While on Sick Leave" form to his District Surgeon prior to embarking on his trip.

P.G. 205-60, Page 3, ADDITIONAL DATA PERSONNEL MATTERS  
REPORTING TO DEPARTMENT SURGEON AND  
RETURNING TO DUTY FROM SICK REPORT

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office, and Respondent was represented by Craig Hayes, Esq.

Respondents through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case Nos. 2013-10374

Respondent, having pleaded Guilty, is found Guilty as charged.

Disciplinary Case No. 2015-13884

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

By way of mitigation, Respondent, who has been an officer for over seventeen years, testified that after he violated Department guidelines for traveling to Cuba in 2009, he received a penalty of 25 vacation days. Shortly after receiving that penalty, he was transferred from the 32 precinct, which was near his home and where he had worked for fifteen years, to the 90 precinct and was assigned to a four to twelve tour. At about the same time as his transfer, he obtained full custody [REDACTED] (Tr. 6-9).

[REDACTED]

[REDACTED] No one else was living with Respondent and [REDACTED] at that time. (Tr. 9). Respondent's command refused his request to change his tour and it was difficult dealing with [REDACTED] while working the four to twelve in Brooklyn. (Tr. 10-11).

With regard to mitigation for the individual charges, Respondent said that for case number 2013-10374, there were a variety of CDs he received but they were all in the time frame when he was transitioning into the role of custodial parent. For Specification 1,

Respondent testified that he was late and lateness constituted a non-appearance. For Specification 2, he stated that he had to walk to his foot post and while he thought he made it on time, he did not. With regard to Specification 3, he forgot to sign a log and that constituted a failure to report. Specification 4 and 6 charge Respondent with a total of 6 latenesses in an approximate 11 month period. Respondent admitted to being late each time by about 15 to 30 minutes at the most. He testified the latenesses were caused by trying to make the adjustment from going from uptown Manhattan to Brooklyn while also trying to spend a lot of time with [REDACTED]. With regard to the Specification 5 charge, he acknowledged that he didn't have on proper attire for a Traffic Bureau appearance and attributed that to just having too much on his mind.

Respondent's testimony regarding the charge in case 2015-13884, was that he was out on a line of duty injury and on his RDO he took a one day trip to Washington, D.C. to see [REDACTED] who was on a trip there. (Tr. 16-17). Respondent stated that he did not know he was not allowed to leave the state without permission on his RDO while out on a line of duty injury.

Respondent admitted what he has done as outlined by the charges was wrong and said he was sorry. (Tr. 19). He has made changes in his practices since his last charged lateness by getting more help with [REDACTED] from his [REDACTED] and [REDACTED] (Tr. 24).

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent

was appointed to the Department on July 1, 1998. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pled guilty to failing to appear in criminal court after having been previously notified to do so; failing to report to the Police Room and obtain a completed court attendance form after arriving late to a traffic court appearance, and failing to wear appropriate attire to court. These charges are reminiscent of those in *Disciplinary Case No. 2012-7033* (Jun. 17, 2013), in which a 19-year police officer with a prior disciplinary record forfeited ten vacation days for failing to appear in court, listing an inaccurate disposition on his court attendance record, and failing to make authorized entries in his Activity Log regarding the appearance.

Respondent also pled guilty to failing to appear at post in a timely manner. In *Disciplinary Case No. 81263/05* (Nov. 10, 2006), a nine-year member with no prior disciplinary record forfeited five vacation days for being off post on one occasion. In *Disciplinary Case No. 3810/11* (Jul. 18, 2012), a 13-year detective with no prior disciplinary record also forfeited five vacation days for being absent from his assignment without permission or police necessity for approximately 30 minutes.

Respondent also pled guilty to reporting late on six occasions in a ten-month period. These charges are reminiscent of those in *Disciplinary Case No. 2012-6638* (Mar. 5, 2012), in which a nine-year police officer with no prior disciplinary record forfeited ten vacation days for failing to submit Leave of Absence Reports for being late on nine occasions and failing to sign out of the Return Roll Calls eight times; and *Disciplinary Case No. 2010-1010* (Jul. 10, 2012), in which an 18-year police officer with

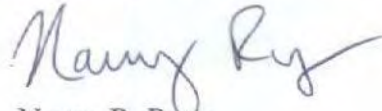
no prior disciplinary record forfeited ten vacation days for being absent without leave and arriving late to his command on three separate occasions without submitting a Leave of Absence Report for his lateness.

Finally, Respondent pled guilty to traveling to Washington, D.C. while on sick report without submitting an "Absence from City While on Sick Leave" form to his district surgeon. In *Disciplinary Case No.* [REDACTED] a nine-year police officer with no prior disciplinary record forfeited 20 vacation days for traveling to Puerto Rico without permission while on sick report. In *Disciplinary Case No.* [REDACTED] [REDACTED] an eight-year police officer with no prior disciplinary history forfeited a penalty of 25 vacation days for leaving the confines of the City/residence counties without authorization or approval while on Sick Report. Respondent himself has a previous penalty of the loss of 25 vacation days, in part, for traveling to a prohibited location without proper notification. (*Disciplinary Case 84338/09*)

The Assistant Department Advocate recommended a penalty recommendation of 30 vacation days and one year dismissal probation. Given the multiple acts of misconduct discussed above, in conjunction with Respondent's record, his previous penalty of 25 vacation days and the Department's need to ensure Respondent's future performance conforms to Department rules and regulations, this penalty recommendation seems reasonable. Accordingly, it is recommended that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115(d) of the Administrative Code, during which he remains on the force at the Police Commissioner's discretion and may be

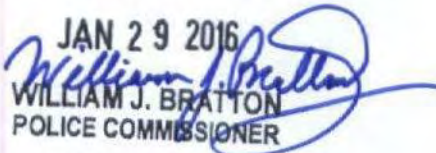
terminated at any time without at further proceedings. It is further recommended that Respondent forfeit 30 vacation days.

Respectfully submitted,



Nancy R. Ryan  
Assistant Deputy Commissioner – Trials

**APPROVED**

JAN 29 2016  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

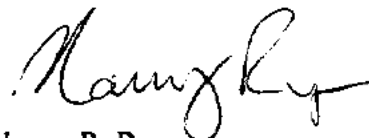
From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER CARLOS PAVA  
TAX REGISTRY NO. 921662  
DISCIPLINARY CASE NOS. 2013-10374 & 2015-13884

In 2014, Respondent received an overall rating of 3.5 "Highly Competent/Competent" on his annual performance evaluation. He was rated 2.5 "Competent/Low" in 2011 and 3.0 "Competent" in 2013. He has been awarded one medal for Excellent Police Duty. [REDACTED]

[REDACTED]  
[REDACTED] He has been on Special Monitoring Level II since 2012 due to poor performance.

Respondent has been the subject of one prior adjudication. In 2012 he forfeited 25 vacation days after pleading guilty to twice traveling to Cuba without permission from the United States office of foreign assets control, neglecting to notify the Department that he was the subject of Toronto police investigations, failing to sign in at the police room at court, failing to attend the outdoor range as directed, conspiring to obtain permission to take a vacation day after his request for permission was denied, failing to report to the desk for an assignment and sign out on time, and neglecting to notify the Department of an off-duty domestic incident.

For your consideration.



Nancy R. Ryan  
Assistant Deputy Commissioner – Trials